



City of Albuquerque

Legislative File Number O-06-42 (version 1)

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

Amending Chapter 2, Article 6, Part 8 ROA 1994, Portions Of The Ground Water Protection Advisory Board Ordinance, To Expand The Duties And Powers Of The Board, And To Include Representation From The Albuquerque Bernalillo County Water Utility Authority.

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

BE IT ORDAINED BY THE CITY COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. Findings.

The Council finds that:

1. Albuquerque/Bernalillo County Ground-Water Protection Policy and Action Plan (GPPAP) was adopted by the County in Resolution No. AR 121-93 on November 23, 1993, and the City in Resolution No. R-57, Enactment No. 81-1994, on August 12, 1994.

2. The goals of the GPPAP are to prevent any additional ground water contamination in Bernalillo County, to facilitate clean-up of existing contamination, and to promote the coordinated protection and prudent use of ground water.

3. The Ground Water Protection Advisory Board (GPAB) was established in 1998 to provide oversight, review and comment on ground water protection activities, and is responsible for overseeing implementation of the GPPAP.

4. The City of Albuquerque (City) and Bernalillo County (County) have implemented and continue to monitor and maintain the required programs and activities outlined in the GPPAP.

5. The New Mexico Legislature created the Albuquerque Bernalillo Water Utility

Authority (Authority) and transferred the City's water and wastewater utility to the Authority (Laws of 2003, Chapter 437, as amended by Laws of 2005, Chapter 345, codified as Section 72-1-10 NMSA 1978).

6. The Authority provides financial funding for ground water protection programs including water resource programs, utility extension, sewer rehabilitation, liquid waste pollution prevention, and hazardous material disposal education activities.

7. The quality of surface water and the relationship between surface and ground water will become more critical when the Authority begins to provide surface water as its primary drinking water source. It is projected that the San Juan-Chama Surface Drinking Water Project will ensure that the Authority fulfills its objective by providing the Authority's customers with a sustainable water supply through 2060.

8. The GPAB role should be expanded to address surface water quality protection. The GPAB would be more effective in studying and advising the City, the Authority, and the County on surface and ground water protection concerns, including policies necessary to enhance protection of both surface and ground water quality.

9. In order for the GPAB to effectively communicate with and advise the Authority, the Authority should have representation on the board.

Section 2. Sections 2-6-8-1 through 2-6-8-7 ROA 1994 are amended to read as follows:

“§ 2-6-8-1 SHORT TITLE.

This ordinance shall be known and may be cited as the '~~[-Ground-]~~ Water Protection Advisory Board Ordinance.'

§ 2-6-8-2 DEFINITIONS.

For purposes of this ordinance, the following definitions shall apply:

[+AUTHORITY: The Albuquerque Bernalillo County Water Utility Authority.+]

[+AUTHORITY EXECUTIVE DIRECTOR. Executive Director of the Albuquerque Bernalillo County Water Utility Authority or his or her authorized representative. +]

BOARD. The ~~[-Ground-]~~ Water Protection Advisory Board created by this ordinance.

CHIEF ADMINISTRATIVE OFFICER. Chief Administrative Officer of the City of Albuquerque or his or her authorized representative.

CITY. City of Albuquerque, New Mexico.

CITY COUNCIL. Albuquerque City Council.

COUNTY. County of Bernalillo, New Mexico.

COUNTY COMMISSION. Board of County Commissioners of Bernalillo County.

COUNTY MANAGER. County Manager of Bernalillo County or his or her authorized representative.

GROUND WATER PROTECTION POLICY AND ACTION PLAN or 'GPPAP.' The Albuquerque/Bernalillo County Ground-Water Protection Policy and Action Plan, adopted by the County in Resolution No. AR 121-93 on November 23, 1993, and the City in Resolution No. R-57, Enactment No. 81-1994, on August 12, 1994.

MAYOR. Mayor of the City of Albuquerque or his or her authorized representative.

POLICY IMPLEMENTATION COMMITTEE. The joint City/Authority/County committee, co-chaired by the County Manager [+, the Authority Executive Director, +] and the Chief Administrative Officer or their designees, which is charged with implementing GPPAP [+or other water quality protection programs+] at the administrative level [+and providing oversight and policy direction+].

§ 2-6-8-3 PURPOSE.

The purpose of the [~~Ground~~] Water Protection Advisory Board Ordinance is to establish a combined City [+, Authority, +] and County advisory board to:

(A) Study and advise the City [+, the Authority, +] and the County on [+surface and+] ground water protection concerns, including policies necessary to enhance protection of [+surface and+] ground water quality;

(B) Oversee implementation of the Ground Water Protection Policy and Action Plan;

(C) Promote consistency in City [+, Authority, +] and County actions to protect [+surface and+] ground water quality; and

(D) Advocate effective protection of [+surface and+] ground water quality.

§ 2-6-8-4 BOARD CREATED.

(A) Creation. There is hereby created a [~~Ground~~] Water Protection Advisory Board.

(B) Membership. The Board shall consist of [~~seven~~] [+nine+] members, three of

whom shall be appointed by the Mayor with the advice and consent of the City Council [~~+, two of whom shall be appointed by the Authority, +~~] and three of whom shall be appointed by the County Commission. One member shall be appointed jointly by the County Commission and the Mayor with the advice and consent of the City Council. [~~+Initial membership shall consist of existing Groundwater Protection Advisory Board appointed members. +~~]

(C) Terms. Members shall be appointed for three year terms. No member shall serve more than two consecutive terms at a time. Members whose terms expire may continue to serve until a successor member is appointed. [~~+In such case when a new member is appointed, the term shall relate back to the time of expiration of the previous term +~~]. Service for a partial term of greater than two years constitutes a term for the purpose of determining the consecutive number of terms permissible. The terms of the [~~initial~~] members of the Board shall be staggered [~~-, with the City and the County each appointing, pursuant to § 2-6-8-4(B), one member for a one-year term, one member for a two-year term, and one member for a three-year term -~~] [~~+so that three members' terms shall expire each calendar year +~~]. The jointly-appointed member shall be appointed for a three-year term. [~~+Existing Groundwater Protection Advisory Board members shall continue to serve on the Water Protection Advisory Board until their terms expire. +~~]

(D) Vacancies. Vacant positions occurring as a result of an expired term shall be filled by the [~~authority~~] [~~+entity +~~] that appointed the outgoing member. Vacant positions occurring for reasons other than an expired term shall be filled by the [~~authority~~] [~~+entity +~~] that appointed the departing member, with the replacement member serving for the remainder of the unexpired term.

(E) Qualifications.

(1) Board members shall represent the public interest and have a commitment to [~~+surface or +~~] ground water protection. Due to the complexity of the issues involved in [~~+surface and +~~] ground water protection, members preferably should have some technical proficiency in [~~+surface or +~~] ground water matters. Also, because [~~+surface and +~~] ground water protection concerns may vary by geographic location and type of water and wastewater systems used, members should be representative of the

diverse geographic range of the City and the County.

(2) City-appointed members shall be residents of the City and County-appointed members shall be residents of the County. The jointly-appointed member shall be a resident of the County. [+Authority-appointed members shall reside within the Authority service area.+]

(3) No person employed on a full time basis by either the City [+the Authority.+] or the County shall be appointed to the Board. No elected City or County official, and no member of the immediate family of an elected City or County official, shall be appointed to the Board.

(F) Removal. A member of the Board may be removed from office by the appointing ~~[-authority-]~~ [+entity+] for any one or more of the following reasons.

(1) The member has been absent from three consecutive meetings, unless the absence was excused by the Chair. For this purpose, being absent is defined as not being in attendance 75% or more of the duration of each officially called meeting.

(2) The member has been absent, whether excused or not, from more than 50% of the meetings during any twelve consecutive months.

(3) The member is incapacitated, neglectful of duty, or commits malfeasance in office, as determined by the appointing ~~[-authority-]~~ [+entity+].

§ 2-6-8-5 ORGANIZATION; MEETINGS.

(A) Officers. Annually, in the first quarter of the calendar year, the Board shall elect a Chair, Vice-Chair, and any other officers which the Board deems appropriate. Officers shall be elected by vote of the majority of the Board members. Officers shall be elected for one-year terms. No officer shall serve in the same position for more than two consecutive terms at a time. ~~[-Initial officers shall be elected by the third meeting of the Board.-]~~ [+Existing Groundwater Protection Advisory Board officers shall continue to serve on the Water Protection Advisory Board until their term expires.+]

(B) Meetings.

(1) The Board shall hold meetings at least once a month, unless a quorum is unavailable despite best efforts to schedule a convenient meeting or for other good reason, to meet workload demands during the initial implementation of GPPAP. Should

the workload diminish sufficiently, as determined by the Board, the Board may reduce its meeting schedule to no less than quarterly. The Board shall meet a minimum of four times a year.

(2) All meetings shall be in compliance with the provisions of the Open Meetings Act.

(C) Conduct of Business. Unless the Board adopts other written rules to govern its proceedings, the Board shall conduct business according to Robert's Rules of Order, which the Board may modify in writing as it deems appropriate. ~~[-A quorum of four members is required for the conduct of business.-]~~ [+A quorum of five members shall be necessary to transact business, adopt motions, or conduct voting.+] Actions may be decided by a majority of the members present.

(D) Records. A record shall be kept of all meetings of the Board, including the vote of each member on each action. The records shall be filed with the City and County Clerks and shall be made available for public inspection at reasonable times.

(E) Conflict of Interest.

(1) Any member who has a conflict of interest regarding a policy, decision, or determination before the Board or one of its committees or work groups on which the member serves shall, as soon as possible after the conflict of interest becomes apparent, disclose the nature of the conflict to each of the other members voting on the matter. Disclosures shall be recorded. Disclosure of a conflict of interest shall not disqualify a member from participating in any discussion, debate, or vote on the matter unless:

(a) A majority of the remaining members voting on the matter determines that, for reasons of propriety, the member should not participate or vote on the matter; or

(b) The member voluntarily disqualifies himself or herself.

(2) For purposes of this ordinance, a CONFLICT OF INTEREST means that the member, member's spouse, or member's minor child has an adverse or financial interest in the outcome of any policy, decision, or determination before the Board or one of its committees or work groups on which the member serves.

§ 2-6-8-6 STAFF.

(A) The Chief Administrative Officer [+, the Executive Director, +] and the County Manager shall provide staff and resources, including the services of the Policy Implementation Committee, as necessary and appropriate to assist the Board.

(B) The City [+, the Authority, +] and the County may jointly fund a contract for professional, technical, or administrative services to be supplied to the Board or the Policy Implementation Committee as necessary to meet their responsibilities. In the event of a jointly funded contract, each government's ordinances and regulations on approval of contracts for these services shall apply only to the amount of the contract that will be paid by the government, after any reimbursement from the other government, and not to the total contract amount.

§ 2-6-8-7 DUTIES AND POWERS OF THE BOARD.

(A) There is hereby delegated to the Board the following power and authority:

(1) Study. The Board shall study means of protecting and improving [+, surface and +] ground water quality.

(2) Advisory Functions. The Board shall advise the Mayor and the City Council, [+, the Authority, +] the County Commission, the Environmental Planning Commission and the County Planning Commission, and City [+, Authority, +] and County staff on protection of the [+, surface and +] ground water, including recommended policies on [+, surface and +] ground water protection measures; ordinances appropriate for effecting such policies, based on GPPAP; the adequacy of [+, surface and +] ground water protection staffing, budgets and progress; and other appropriate matters.

(3) Oversight Functions. The Board shall oversee the implementation of GPPAP; monitor and review City [+, Authority, +] and County actions to protect the [+, surface and +] ground water; foster the continued cooperation of the City [+, Authority, +] and County in [+, surface and +] ground water protection; and promote consistency in City [+, Authority, +] and County [+, surface and +] ground water protection measures.

(4) Public Education and Advocacy. The Board shall engage in public education and advocacy for the effective protection of [+, surface and +] ground water quality by public officials as well as residents of the City [+, the Authority service area, +] the County, and their environs.

(5) Reports. The Board shall report at least annually to the [+, Authority, +]

County Commission and the Mayor and the City Council on its activities, progress made in implementing GPPAP, and any recommendations for additional policies or ordinances to protect [+surface and+] ground water quality. At least every five years, the Board shall undertake a comprehensive review and evaluation of the effectiveness of GPPAP and recommend any necessary changes to it.

(6) Other Duties, Responsibilities, and Powers. The Board shall have other duties, responsibilities, and powers as may be jointly delegated to it by the City Council [+, the Authority,+] and the County Commission.

[+(7) Comprehensive Surface Water Quality Assessment and Implementation Program. The Board shall work with City, County, and Authority staff in outlining and developing programs for surface water in addition to existing ground water protection programs. The Board shall work with staff in developing a timeline for implementation of the activities including costs, responsibilities and other issues related to surface water protection.+]

(B) Committees and Work Groups. The Board may form committees to assist the Board with its assigned duties, responsibilities, and powers. Committees shall consist of members of the Board selected by the Board. The Board also may form advisory work groups to carry out specific assignments that will assist the Board in performing its duties and responsibilities. The Board may establish the specific assignments and set guidelines and timetables for the work group in performing its work. At least one Board member, selected by the Board, shall serve on a work group. The Board may invite members of the general public, City [+, Authority,+] or County staff, or elected officials to serve on its work groups as it deems appropriate.

(C) Relationship of the Board to the Policy Implementation Committee. The Board may take an advisory position on a matter that is different from the advisory position of the Policy Implementation Committee. The Board, however, shall not convey its advice to another governmental body without also conveying the different position of the Policy Implementation Committee on the same matter.”

Section 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the

validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 4. COMPILATION. This ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

Section 5. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

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